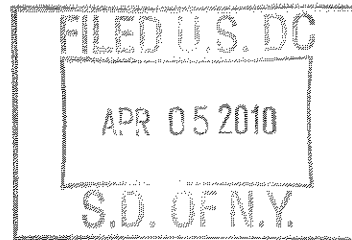


UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT



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In re CURRENCY CONVERSION FEE
ANTITRUST LITIGATION

Court of Appeals Docket No. 09-4938-cv

NOTICE OF APPEAL

01 MD 1409

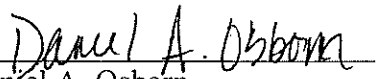
This Document Relates To:

ALL ACTIONS.
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Notice is hereby given that objector Herbert A. Berger hereby appeals to the United States Court of Appeals for the Second Circuit from this Court's March 5, 2010 Memorandum and Order requiring certain, but not all, of the objector-appellants, to post an appeal bond in the amount of \$50,000 to cover photocopying expenses [DE 810].

Dated: April 5, 2010
New York, New York

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UNITED STATES COURT OF APPEALS
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AFFIRMATION OF SERVICE

This Document Relates To:

ALL ACTIONS.
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I BENJAMIN COLEMAN declare under penalty of perjury that I have served by email a
copy of the attached NOTICE OF APPEAL for Objector Herbert Berger upon:

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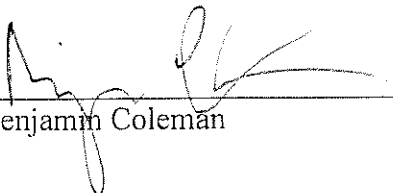
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Dated: April 5, 2010
New York, New York


Benjamin Coleman

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

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In re CURRENCY CONVERSION FEE
ANTITRUST LITIGATION

Court of Appeals Docket No. 09-4938-cv

MDL No. 1409

This Document Relates To:

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NATURE OF THE ACTION

1. In lower court, Mr. Berger, through his counsel, Osborn Law, P.C. and Stanley H. Epstein, asserted that the notices to be mailed to class members and published in various journals and periodicals (the “Notices”), were constitutionally defective.

2. After several months of work with plaintiffs’ counsel, the changes requested by Mr. Berger and his attorneys were accepted. Those changes conferred a benefit on the class members by providing them with additional information with which to evaluate the fairness of the settlement, thereby allowing them to make educated, informed decisions about whether to participate in, object to, or opt-out of the MDL settlement.

3. On January 30, 2008, objector Berger filed an application for attorneys’ fees and expenses for worked performed for the benefit of class members in the MDL litigation.

4. On October 22, 2009, the Court’s Memorandum and Order granted final approval of the settlement, and on November 4, 2009, the Court entered a Final Judgment and Order of Dismissal in this case. In its October 22, 2009 Memorandum, the Court stated that objector Berger and his counsel did little to aid the Court and that any notice modifications were entirely

on the Court's initiative and devised by the Special Master and the parties. [DE 755 p. 40]. This statement is not correct.

5. On November 25, 2009, objector Herbert A. Berger filed an appeal in the United States Court of Appeals for the Second Circuit from the Court's October 22, 2009 Memorandum and Order granting final approval of the settlement, plan allocation, and class certification, and granting in part, plaintiffs' motion for an award of attorneys' fees and expenses and PSLRA awards [DE 755], and the Final Judgment, entered November 4, 2009 [DE 763].

6. On December 22, 2009, plaintiff's counsel filed a motion to require appeal bonds of some, but not all, of the objectors for a total of \$50,000 [DE 785, 786, 787, and 788].

7. On January 5, 2010, objector Herbert Berger filed an opposition to plaintiffs' request to require appeal bonds of some, but certainly not all, of objectors [DE 790].

8. On January 19, 2010, plaintiffs filed a reply memorandum in further support of their request to require some of the objectors to post an appeal bond [DE 800].

9. On March 5, 2010, the Court granted class counsel's request for an appeal bond and ordered a \$50,000 appeal bond jointly and severally on certain objector appellants, including objector- appellant Herbert Berger [DE 810].

10. On March 8, 2010, plaintiffs endorsed a letter to Judge Pauley requesting that the Court set a deadline of fourteen days following the March 5, 2010 Order, or no later than March 19, 2010, for named appellants to post the bond [DE 812].

11. On March 10, 2010, objector-appellant Berger wrote the Court in response to plaintiffs' March 8, 2010 request that the appellants be required to post the appeal bond by March 19, 2010. In his letter memorandum, he requested that the Court modify its Order and

give the appellants until April 5, 2010 to post the bond. On March 18, 2010, the Court denied objector Berger's request. [DE 817].

12. Objector Berger now appeals the Court's March 5, 2010 Order requiring an appeal bond.